

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO GERMANY

OCTOBER 5, 1990.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 101-20]

The Committee on Foreign Relations, to which was referred the Treaty on the Final Settlement with Respect to Germany and its related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990, having considered the same, reports favorably thereon without amendment or condition and recommends that the Senate give its advice and consent to ratification thereof.

I. PURPOSE

On September 12, 1990, the Four Powers (the United States, France, Great Britain, and the Soviet Union) from the Second World War, and the two Germanys (the Federal Republic of Germany and the German Democratic Republic), signed in Moscow the Treaty on the Final Settlement with Respect to Germany and a related Agreed Minute. The principal purpose is to terminate all remaining Four-Power rights with regard to Germany and to establish certain obligations, goals, and procedures that will govern a unified Germany's relations with the Four Powers.

II. BACKGROUND

With Germany's unconditional surrender at the end of the Second World War, the allies' major objectives with regard to Germany were to end the German capacity for war and to create a democratic German state. In agreements concluded during and im-

mediately after the war—at Potsdam and Yalta—the Four Powers decided upon the general division of territory in Eastern Europe and agreed to occupy Germany to achieve their objectives.

The allies divided Germany into occupation zones. The Soviet Union occupied the part of Germany that became the German Democratic Republic; and the French, British, and Americans occupied zones that became the Federal Republic. In the late 1940's, disagreements emerged between the Soviet Union and the three Western powers regarding Germany's borders, reparations, and the future political status of the German state. By 1947, any illusion of consensus on Germany had ended.

As the battle lines of the cold war began to solidify, the Soviet Union balked at efforts to create a fully sovereign German state, and instead created a military defense against the West in the eastern part of Germany. In response, France, Great Britain, and the United States unified the three Western occupation zones, and the Federal Republic was founded in 1949. Later that year, the Soviet Union authorized establishment of the German Democratic Republic, to which it formally granted sovereignty in 1954.

The three Western powers maintained their occupation regime in Germany until 1955, when they abolished the Allied High Commission that had administered the Federal Republic. In the same year, the Federal Republic of Germany became a member of the North Atlantic Treaty Organization. In supervising this transition, however, the three Western powers explicitly reserved their rights with respect to Germany as a whole and to Berlin, to the setting of Germany's ultimate boundaries, and to participation in the conclusion of a final treaty.

Separate wartime agreements governed the status of Berlin. As with Germany as a whole, Germany's former capital was divided into four occupation zones; governance was performed by an Allied Kommandatura (AK), comprised of the military commanders of the four allies. Since 1948, when the Soviet commander left the AK, the Western allies have exercised their authority in the three western sectors, while the U.S.S.R. exercised these rights in the Soviet zone. Allied rights in Berlin fell into three main categories: access and free circulation; demilitarization; and security and intelligence functions.

Throughout the postwar period, Berlin has symbolized the rift in East-West relations. The 1948 Berlin blockade, the 1953 Berlin uprising, and the 1961 erection of the Berlin Wall were landmarks in the evolution of the cold war. In 1971, to "promote the elimination of tension and the prevention of complications in Berlin," the Four Powers signed the Quadripartite Agreement on Berlin. The agreement permitted greater civilian access, trade, and other communication between Berlin and the Federal Republic.

Legally, Berlin has remained under the Four-Power status established by the postwar agreements. In the Treaty on the Final Settlement with Respect to Germany, the Four Powers have sought to exercise their rights with regard to Berlin and Germany as a whole while returning full sovereignty to a united Germany.

Although German unification remained a shared long-term goal of the FRG and the three Western powers, the process accelerated unexpectedly in the fall of 1989 with a peaceful revolution in the

GDR and the crumbling of the Berlin Wall. By year's end, early unification appeared inevitable. In February 1990, acting to set an orderly course, the Four Powers and the two Germanys agreed in Ottawa on a framework for negotiation. Under the "two-plus-four" process, the Federal Republic and the German Democratic Republic would address the internal process of unification while the Four Powers discussed the external issues arising from the Second World War and its aftermath.

According to the negotiating history presented to the committee, the six Foreign Ministers met four times after their February meeting in Ottawa: on May 5 in Bonn, on June 22 in Berlin, on July 17 in Paris, and on September 12 in Moscow. There were also 10 meetings of the two-plus-four at the subministerial level.

Because of the importance of satisfying Polish concerns, the Foreign Minister of Poland participated in that part of the July 17 meeting which addressed the Polish border issue.

The treaty was signed at the September 12 ministerial meeting in Moscow. On October 1 in New York City, the Four Powers met again to sign a temporary accord suspending their rights in anticipation of, and to allow for, German unification and the return of full sovereignty to Germany. This companion document to the full treaty was necessary as a transitional measure because the treaty will enter into force only after ratification is approved by the legislatures of the Four Powers and the united Germany.

Just after midnight on the morning of October 3, the German flag was raised in the heart of Berlin at the site where the Berlin Wall had divided East and West for decades. With this symbolic act, the two Germanys became one. Later that day, Berlin and the Laender (states) of the German Democratic Republic (GDR) voted to become part of the existing Federal Republic of Germany (FRG). The GDR parliament merged with the Federal Republic's Bundestag, paving the way for German ratification of the treaty.

III. MAJOR PROVISIONS

The original Four-Power rights were outlined in the Potsdam agreement of August 1945. In the ensuing decade, the Four Powers relinquished some of these rights in the effort to create viable German states able to contribute to the competing NATO and Warsaw Pact alliance systems, but retained the right to station forces in Germany, to participate in negotiations concerning unification and a peace settlement, to determine a united Germany's final borders, and to exercise power over and determine the status of Berlin.

Under the treaty, the Four Powers—the United States, France, Great Britain, and the Soviet Union—terminate all remaining Four-Power rights and responsibilities with respect to Germany and Berlin.

A united Germany, for its part, affirms in the treaty that its current borders are final and definitive; it further pledges to renounce aggressive war and any intention to manufacture, possess, or control nuclear, biological, or chemical weapons; to reduce its armed forces to a level of 370,000; and to adopt a constitution that reflects the principles of peace. The Soviet Union agrees, in an implicit ex-

change for a German commitment to maintain a relatively modest defensive force, to a total withdrawal by 1994 of Soviet troops from German soil.

IV. COMMITTEE ACTION

On September 26, President Bush transmitted the treaty and the related Agreed Minute to the Senate. Included in the President's package were: a letter of transmittal from President Bush, a letter to the President from Secretary of State Baker, and an exchange of letters between Baker, East German Prime Minister Lothar de Maiziere, and West German Foreign Minister Hans Dietrich Genscher with regard to claims against the GDR. On September 28, the committee heard testimony from State Department Counselor Robert Zoellick, the administration official most directly involved in the treaty's negotiation.

The committee considered the treaty and its Agreed Minute at its business meeting on October 2, and by a vote of 19-0 ordered them reported favorably to the Senate for its advice and consent. The yeas were: Senators Pell, Biden, Sarbanes, Cranston, Dodd, Kerry, Simon, Sanford, Moynihan, Robb, Helms, Lugar, Kassebaum, Boschwitz, Pressler, Murkowski, McConnell, Humphrey, and Mack.

By the same vote, the committee also reported favorably a companion measure, a Senate resolution regarding the Baltic States, which is intended to be dealt with by the Senate in conjunction with the treaty. The text of this companion measure is as follows:

Resolved,

(a) The Senate finds as follows:

(1) the President and Secretary of State have made repeated statements emphasizing longstanding United States policy to reject, and not recognize, the incorporation of the Baltic States by the Union of Soviet Socialist Republics; and

(2) the President and his representatives have also stressed that this policy is in no way altered or compromised by the provisions of the Treaty on the Final Settlement with Respect to Germany.

(b) It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement with Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

VI. COMMITTEE COMMENTS

The Bush administration has sought prompt Senate consideration of this treaty, and the committee has complied in the belief that the treaty's purposes and terms are sound and that expedi-

tious action would reflect an appropriate degree of American support for this measure and all that it represents.

The Treaty on the Final Settlement with Respect to Germany constitutes a landmark in international diplomacy.

History in this century has been dominated by two overarching events—successive world wars in the first half and, throughout the second half, a great geopolitical rift that has threatened civilization on our planet. This treaty marks a closing point for both of these major events of the 20th century.

The devastating wars between 1914 and 1945 were related, one leading inexorably to the next. Each involved the question of Germany, and neither war resolved it. This treaty, embraced by the German people and by their neighbors, should at long last provide a stable solution to the German question; its ratification will thereby, in a very real sense, mark a culmination of the First and Second World Wars.

The treaty also marks the final chapter of the second predominant event of our century: the geopolitical rift known as the cold war, which has shaped all world politics since 1945. Throughout that period, Germany's division into two occupied, heavily armed, and ideologically opposed sectors has symbolized the confrontation between East and West. The treaty provides not only for German unification but also for crucial steps needed to bridge the East-West divide.

For American foreign and defense policy, too, the treaty is a landmark—the crowning achievement of the policy of containment in Europe. The essence of that policy was to provide a defensive shield behind which free-market democracy could take firm root, then to maintain that shield until such time as the Soviet Union was prepared to enter the community of democratic nations. At this point, the future of the Soviet Union itself remains uncertain. But the Kremlin leadership has, by most evidence, determined to allow the nations of Eastern Europe to chart their own course. United States policy in Europe has thus proven a magnificent success, of which Americans can be justly and permanently proud.

The German people as well can be proud, for in the period since the horrors of Hitler the successor German generation has built a successful and prosperous democracy firmly attached to Western values and fully at peace with its neighbors. Earlier this year, as the prospect of German unification began to loom large, more than one committee member expressed concern that a unified Germany might revive territorial ambitions long held in check by superpower occupation. This concern was intensified by the seeming slowness of West German leaders to make unambiguous statements regarding a united Germany's borders. The committee therefore ascribes great importance to the fact that this treaty expresses—in paragraph 1 of article I—a solemn confirmation and commitment that the borders of the united Germany shall be confined to the territory of the two German states and that “the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe.”

Finally, the committees notes that, although its text is comparatively brief, this treaty may be the most constructive arms control agreement in history. Not only does the treaty pledge a united Ger-

many to renounce aggressive war and any intention to manufacture, possess, or control nuclear, biological, or chemical weapons; to reduce its armed forces to a level of 370,000; and to adopt a constitution that reflects the principles of peace. It also, in implicit exchange for a German commitment to maintain a relatively modest military force purely for purposes of defense, requires a total withdrawal, by 1994, of the major Soviet occupation force in Eastern Europe. The implementation of these terms will transform the face of Europe.

In sum, the committee believes that this treaty fulfills the major postwar American foreign policy objective with regard to Germany: a free and united Germany, linked to the West through social and political systems reflecting common values.

VI. SPECIFIC ISSUES

Borders

While the treaty commits Germany to accept its present borders as final and definitive, and specifically refers to the existing German border with Poland, it makes no mention of the borders of the other, non-German signatories of the treaty. Members of the committee raised questions regarding the treaty's possible effect on the Baltic States. Specifically, Senators expressed a concern raised by the Government of Estonia that the treaty could be interpreted as tacitly accepting the Soviet Union's incorporation of the Baltic States in 1939.

In preparation for committee action on the treaty, members considered the possibility of appending to the Senate advice-and-consent resolution a so-called category 1 condition regarding the Baltic States. Category 1 conditions affirm a U.S. policy, and depending upon wording may be binding on the U.S. Government with regard to that policy, but need not be communicated to other nations or accepted by them. In contrast, category 2 conditions must be communicated but do not require formal acceptance; and category 3 conditions require communication and formal acceptance by the other party or parties.

If, in this instance, the committee had determined that several conditions were needed, including some in categories 2 or 3, it would have included all in the advice-and-consent resolution. However, since the committee had only one purpose—the reaffirmation of U.S. policy with regard to the Baltic States—it determined that this could as effectively be accomplished by a simultaneous, separate Senate resolution considered in conjunction with the treaty.

In the committee's view, this approach held the advantage of allowing a "clean" resolution of ratification while avoiding the possibility that other parliaments might be tempted, by the impression that the Senate had added a "condition," to engage in similar or even countervailing action.

The committee emphasizes, however, that this decision was peculiar to the current treaty and the circumstances that surround it, and that its action should not be interpreted as a precedent indicating that the committee will forgo adding conditions with regard to future treaties if, in the committee's judgment, such action is warranted by treaty terms or surrounding circumstances.

The committee points out that the administration supports the separate Senate resolution reported by the committee. Indeed, on October 3, in his proclamation on German-American Day, President Bush stated as follows:

The achievement of German unity will also give hope to others, particularly the Baltic peoples, that a peaceful but determined struggle for national self-determination can succeed even over seemingly insurmountable obstacles. The United States remains true to its policy of nonrecognition of the annexation of the Baltic states, just as we never wavered in our support for German unity even through the darkest hours of the cold war.

Connection between a CFE Agreement and Soviet and German Forces

Article III (paragraph 2) of the treaty refers to an FRG statement of intent to reduce the troop strength of a unified Germany to 370,000 within 3 to 4 years. The statement declares that this "reduction will commence on the entry into force of the first CFE agreement." Relatedly, article IV states that the Soviet withdrawal from Germany "will be completed by the end of 1994, in connection with the implementation of the undertaking of the Federal Republic of Germany and the German Democratic Republic referred to in paragraph 2 of article III of the present treaty."

Accordingly, a key question is how or whether German force reductions and Soviet withdrawals are linked to a CFE agreement. During the hearing, committee members asked whether the reductions in German forces referred to in article III and the withdrawal of Soviet forces referred to in article IV are contingent upon the achievement of a CFE agreement, and, with or without a CFE agreement, whether Germany's reduction to a force level of 370,000 would create a requirement for Soviet withdrawal.

Representing the administration, Mr. Zoellick stated that the removal of Soviet troops by the end of 1994 is a "clearly binding legal commitment" regardless of the conclusion of a CFE agreement; he did not make the same statement with regard to the reduction of German forces.

While the committee acknowledges that the conclusion of a CFE agreement is expected and may even be highly likely, members noted that the administration was not able to give unequivocal assurances regarding German force reductions in the absence of a CFE agreement. When asked whether the German force-reduction commitment is binding, Mr. Zoellick responded: "They [Germany] are not bound by the very nature of the statement."

In further questioning, Mr. Zoellick did underscore that the other signatories to the treaty have taken note of the German statement regarding force reduction, and consider the German intent to be clear. He stated: "The German statement that you read in article III is a politically binding statement of intent of the Federal Republic to which the German Democratic Republic associates itself to reduce forces as stated therein. * * * In terms of the CFE, it is our understanding that the [political] commitment stands regardless of whether one has a GTE agreement or not."

Nuclear Weapons in Germany

American forces in West Germany have always maintained custodial control over United States nuclear weapons there, but NATO planning has envisaged that in a crisis some of these weapons could be transferred to West German (and other NATO) forces. In the treaty, however, a united Germany forswears "possession" and "control" of nuclear weapons. Accordingly, the committee questioned how the treaty affects current nuclear arrangements between United States and German forces, through which Germany could in a crisis acquire "control" of nuclear weapons.

During questioning, Mr. Zoellick responded that the FRG had years ago forsworn the possession or control of nuclear weapons yet had remained a party to "dual-key" arrangements for purposes of defense. Thus, arrangements that had existed under that pledge could be expected to continue. The committee concludes that the principle of avoiding German "control" will be satisfied by the fact that the President of the United States will continue to determine the disposition of any United States nuclear weapons stationed on German soil.

Deployments of Foreign Forces

Article V (paragraph 3) of the treaty states: "Foreign armed forces and nuclear weapons or their carriers will not be stationed in that part of Germany or deployed there [the territory of the present German Democratic Republic]." In an Agreed Minute, the signatories deal with the word "deployed" as follows: "Any questions with respect to the application of the word 'deployed,' as used in the last sentence of paragraph 3 of article V will be decided by the Government of the united Germany in a reasonable and responsible way, taking into account the security interest of each contracting party as set forth in the preamble."

According to administration testimony, an understanding exists among the signatories that "deployed" in this context precludes large-scale exercises as defined by the 1986 Stockholm Agreement on confidencebuilding. However, Mr. Zoellick stated that "after the transition period, the formal legal basis is * * * for the united Germany to determine what activities could take place there. On the basis of a statement of a German official in the negotiating session [this means] not large-scale exercises. Other things could take place."

Mr. Zoellick explained that while the treaty is clear in its prohibition of the stationing of foreign armed forces in the eastern part of Germany, the United States was seeking flexibility with regard to other reasonable, defense-related activities in that region. He stated that "the interpretation of the word 'deployed' would be up to the united German Government, taking into account the interests of all parties involved."

American Forces in Berlin

Regarding the continued presence of U.S. forces in Berlin, article V of the treaty provides that "the Government of the united Germany will conclude with the Governments of those states which have armed forces stationed in Berlin treaties with conditions

which are fair taking account of the relations existing with the states concerned." The administration has informed the committee that the German Government has requested that the troops of the United States, France, and Britain remain during the transition period; at the committee's request, the administration provided copies of the exchange of notes on the status of forces and on Berlin stationing. These letters, included in the appendix of this report, set out the procedures for continued allied presence in Berlin during the transition period.

Scope of Arrangements Terminated

Under article VII of the treaty, the Four Powers terminate certain "agreements, decisions, and practices." The committee believed it necessary to clarify what precisely this meant. At committee request, the administration provided a complete list, which is included in the appendix of this report, of all the "agreements, decisions, and practices" to which article VII refers.

Claims

The treaty does not include mention of unresolved claims by U.S. citizens and Jewish victims of the Nazi regime against the German Democratic Republic. However, substantive commitments are undertaken in letters (contained in the appendix) exchanged between Secretary of State Baker, Foreign Minister Genscher, and East German Prime Minister de Maiziere. Under these commitments, claims issues are intended to be handled once unification has occurred.

The committee notes particularly Foreign Minister Genscher's September 18 letter to Secretary Baker, which gives assurances that "the Government of the Federal Republic of Germany will resolve in intergovernmental discussions with the Government of the United States shortly after unification the claims of United States nationals that have been the subject of governmental negotiations between the Governments of the United States and the German Democratic Republic. The Federal Republic of Germany will also seek to provide expeditious and satisfactory resolution of claims of Jewish victims of the Nazi regime against the German Democratic Republic shortly after unification."

In his letter transmitting the treaty to the Senate, President Bush draws attention to these commitments as providing "further evidence that the Government of the united Germany will build on the exemplary record of the Federal Republic of Germany in promoting democratic values."

VII. ARTICLE-BY-ARTICLE ANALYSIS

Article I

Article I concerns borders. In 1945 the Potsdam agreement left important border issues unresolved. In particular, German territory east of the Oder-Neisse Rivers was placed under temporary Polish administration, thereby leaving open the possibility of claims by future German governments on that territory. Article I seeks to eliminate this possibility by declaring a united Germany's territory to be definitively that of the two existing German states

and Berlin. The united Germany pledges never to make future territorial claims and to confirm the Oder-Neisse border through a future treaty with Poland. The Polish Government has expressed approval of Article I. In addition, the united Germany promises to ensure that its constitution contains no provisions incompatible with these principles.

Articles II and III

Articles II and III concern the future capabilities of Germany's armed forces. Germany renounces aggressive war and any intention to manufacture, possess, or control nuclear, biological, or chemical weapons. Germany also pledges to begin to reduce its united armed forces to a level of 370,000 (from a current FRG-GDR combined total of approximately 600,000) "within 3 or 4 years," with the reduction to commence in the context of the first agreement on Conventional Armed Forces in Europe (CFE).

The connection between German reductions and the CFE agreement was sought by Germany as a way of avoiding the appearance that Germany had been punitively "singularized" with imposed arms limitations. Under the treaty terms, however, the Germans will have a strong incentive to make these reductions with or without a CFE agreement because the Soviet withdrawal from GDR territory could, in practice, be linked to implementation of the German reductions. A central objective of the Soviet Union at the talks was to achieve treaty-level restrictions on Germany's future military strength, and these articles satisfy that objective.

Article IV

Article IV pledges a united Germany and the Soviet Union to agree to a treaty stipulating terms for the removal of all Soviet forces from German territory by the end of 1994. These reductions are to be undertaken in concert with Germany's conventional force reductions, outlined in article III.

Articles V and VI

Articles V and VI concern the united Germany's relations to NATO and restrict future NATO operations on territory of the present-day German Democratic Republic (GDR). A united Germany retains the right to be a member of NATO, but pledges to station no NATO troops on GDR territory until Soviet forces have been removed. From that moment, only German NATO forces may be stationed on GDR territory. German NATO forces will then also have the right to bring dual-capable weapons on GDR territory, but in accord with article III may bring no nuclear weapons or weapons carriers. Under article V, non-German NATO forces and nuclear weapons may not be "stationed" or "deployed" on GDR territory. Should the united Germany consent, U.S. and other non-NATO forces may remain in Berlin (which is not part of the GDR) but may not increase their current numbers or bring "new categories of weapons" into Berlin. The status of non-German forces is to be established by forthcoming treaties.

Article VII

Under Article VII, the Four Powers renounce all rights over Germany and Berlin and return full sovereignty to a united Germany.

Article VIII

Article VIII calls for ratification of the treaty by a united Germany and the other signatories. (The united Germany is expected to ratify sometime between the October 3 unification and the December 2 national election. France is expected to ratify by the beginning of next year, and the United Kingdom before December. Soviet ratification plans were not clear at the time of the committee's action.)

Articles IX and X

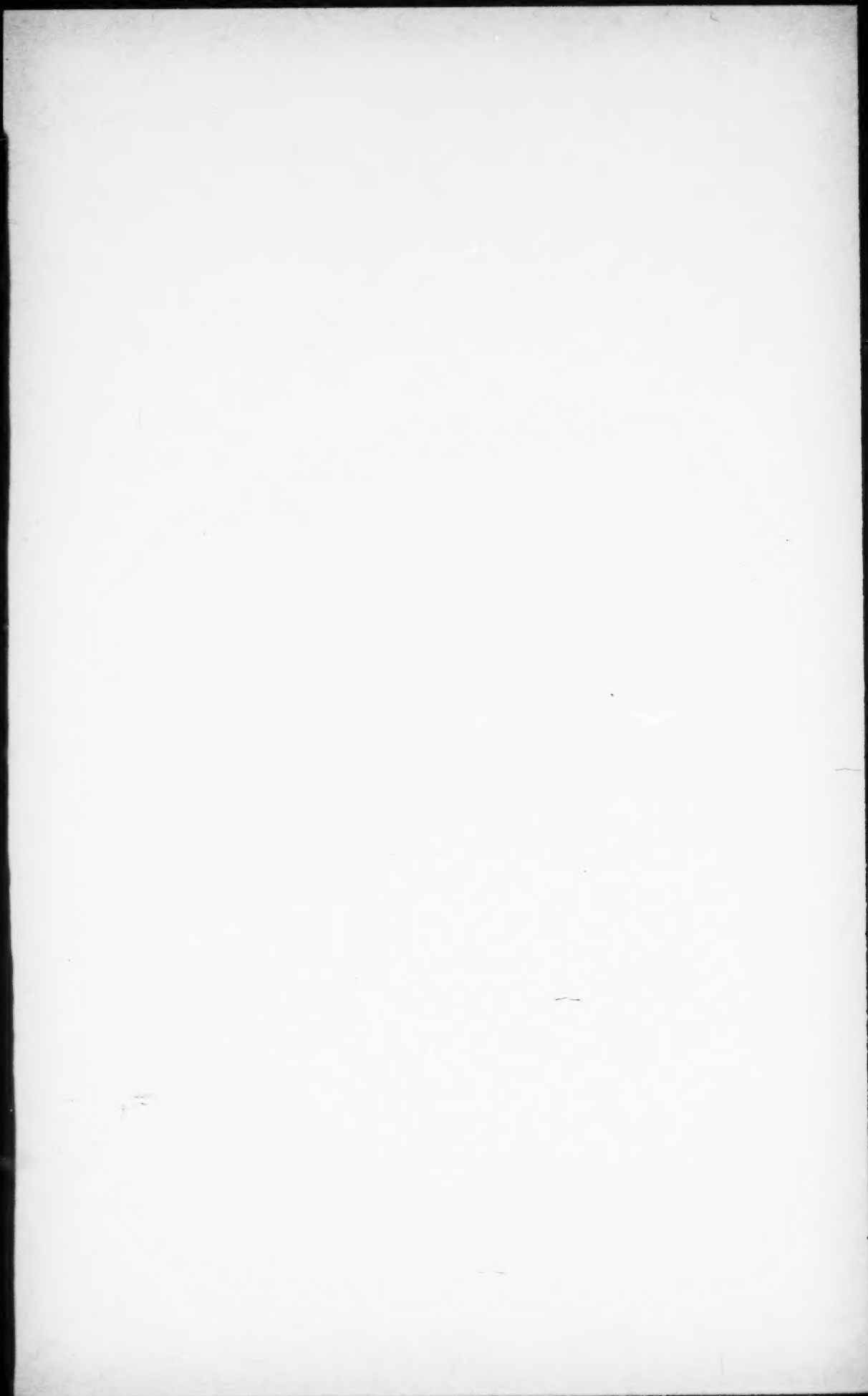
Article IX provides that the treaty will enter into force when all parties have deposited instruments of ratification. Article X concerns the transmission of treaty documents to signatory governments.

VIII. ENTRY INTO FORCE

In accordance with article IX, the treaty will enter into force when all parties have deposited instruments of ratification.

IX. TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on the Final Settlement with Respect to Germany and its related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990.



APPENDIX

This appendix includes the following:

1. Text of the treaty and Agreed Minute.
2. Letters exchanged regarding claims.
 - a. September 11 letter from Baker to Genscher.
 - b. September 12 letter from Genscher and de Maziere to Baker.
 - c. September 18 letter from Genscher to Baker.
3. President Bush's letter transmitting treaty to Senate.
4. Secretary Baker's letter transmitting treaty to President.
5. List of agreements, decisions, and practices terminated under article VII.
6. Agreement on the Settlement of Certain Matters relating to Berlin.
7. Exchange of Notes on the Presence Convention.
8. Exchange of Notes on the Status of Forces.
9. Exchange of Notes on Berlin Stationing.
10. Exchange of Notes on the Relations Convention and the Settlement Convention.

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO GERMANY

The Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America,

Conscious of the fact that their peoples have been living together in peace since 1945;

Mindful of the recent historic changes in Europe which make it possible to overcome the division of the continent;

Having regard to the rights and responsibilities of the Four Powers relating to Berlin and to Germany as a whole, and the corresponding wartime and postwar agreements and decisions of the Four Powers;

Resolved in accordance with their obligations under the Charter of the United Nations to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

Recalling the principles of the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki;

Recognizing that those principles have laid firm foundations for the establishment of a just and lasting peaceful order in Europe;

Determined to take account of everyone's security interests;

Convinced of the need finally to overcome antagonism and to develop cooperation in Europe;

Confirming their readiness to reinforce security, in particular by adopting effective arms control, disarmament, and confidencebuilding measures; their willingness not to regard each other as adversaries but to work for a relationship of trust and cooperation; and accordingly their readiness to consider positively setting up appropriate institutional arrangements within the framework of the Conference on Security and Cooperation in Europe;

Welcoming the fact that the German people, freely exercising their right of self-determination, have expressed their will to bring about the unity of Germany as a state so that they will be able to serve the peace of the world as an equal and sovereign partner in a united Europe;

Convinced that the unification of Germany as a state with definitive borders is a significant contribution to peace and stability in Europe;

Intending to conclude the final settlement with respect to Germany;

Recognizing that thereby, and with the unification of Germany as a democratic and peaceful state, the rights and responsibilities of the Four Powers relating to Berlin and to Germany as a whole lose their function;

Represented by their Ministers for Foreign Affairs who, in accordance with the Ottawa Declaration of 13 February 1990, met in Bonn on 5 May 1990, in Berlin on 22 June 1990, in Paris on 17 July 1990 with the participation of the Minister for Foreign Affairs of the Republic of Poland, and in Moscow on 12 September 1990;

Have agreed as follows:

ARTICLE 1

(1) The united Germany shall comprise the territory of the Federal Republic of Germany, the German Democratic Republic, and the whole of Berlin. Its external borders shall be the borders of the Federal Republic of Germany and the German Democratic Republic and shall be definitive from the date on which the present Treaty comes into force. The confirmation of the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe.

(2) The united Germany and the Republic of Poland shall confirm the existing border between them in a treaty that is binding under international law.

(3) The united Germany has no territorial claims whatsoever against other states and shall not assert any in the future.

(4) The Governments of the Federal Republic of Germany and the German Democratic Republic shall ensure that the constitution of the united Germany does not contain any provision incompatible with these principles. This applies accordingly to the provisions laid down in the preamble, the second sentence of article 23, and Article 146 of the Basic Law for the Federal Republic of Germany.

(5) The Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America take formal note of the corresponding commitments and declarations by the Governments of the Federal Republic of Germany and the German Democratic Republic and declare that their implementation will confirm the definitive nature of the united Germany's borders.

ARTICLE 2

The Governments of the Federal Republic of Germany and the German Democratic Republic reaffirm their declarations that only peace will emanate from German soil. According to the constitution of the united Germany, acts tending to and undertaken with the intent to disturb the peaceful relations between nations, especially to prepare for aggressive war, are unconstitutional and a punishable offense. The Governments of the Federal Republic of Germany and the German Democratic Republic declare that the united Germany will never employ any of its weapons except in accordance with its constitution and the Charter of the United Nations.

ARTICLE 3

(1) The Governments of the Federal Republic of Germany and the German Democratic Republic reaffirm their renunciation of the manufacture and possession of and control over nuclear, biological, and chemical weapons. They declare that the united Germany, too, will abide by these commitments. In particular, rights and obligations arising from the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 will continue to apply to the united Germany.

(2) The Government of the Federal Republic of Germany, acting in full agreement with the Government of the German Democratic Republic, made the following statement on 30 August 1990 in Vienna at the Negotiations on Conventional Armed Forces in Europe:

"The Government of the Federal Republic of Germany undertakes to reduce the personnel strength of the armed forces of the united Germany to 370,000 (ground, air and naval forces) within three to four years. This reduction will commence on the entry into force of the first CFE agreement. Within the scope of this overall ceiling no more than 345,000 will belong to the ground and air forces which, pursuant to the agreed mandate, alone are the subject of the Negotiations on Conventional Armed Forces in Europe. The Federal Government regards its commitment to reduce ground and air forces as a significant German contribution to the reduction of conventional armed forces in Europe. It assumes that in follow-on negotiations the other participants in the negotiations too, will render their contribution to enhancing security and stability in Europe, including measures to limit personnel strengths."

The Government of the German Democratic Republic has expressly associated itself with this statement.

(3) The Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America take note of these statements by the Governments of the Federal Republic of Germany and the German Democratic Republic.

ARTICLE 4

(1) The Governments of the Federal Republic of Germany, the German Democratic Republic and the Union of Soviet Socialist Republics state that the united Germany and the Union of Soviet Socialist Republics will settle by treaty the conditions for and the duration of the presence of Soviet armed forces on the territory of the present German Democratic Republic and of Berlin, as well as the conduct of the withdrawal of these armed forces which will be completed by the end of 1994, in connection with the implementation of the undertaking of the Federal Republic of Germany and the German Democratic Republic referred to in paragraph 2 of article 3 of the present Treaty.

(2) The Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America take note of this statement.

ARTICLE 5

(1) Until the completion of the withdrawal of the Soviet armed forces from the territory of the present German Democratic Republic and of Berlin in accordance with Article 4 of the present Treaty, only German territorial defense units which are not integrated into the alliance structures to which German Armed Forces in the rest of German territory are assigned will be stationed in that territory as armed forces of the united Germany. During that period and subject to the provisions of paragraph 2 of this article, armed forces of other states will not be stationed in that territory or carry out any other military activity there.

(2) For the duration of the presence of Soviet armed forces in the territory of the present German Democratic Republic and of Berlin, armed forces of the French Re-

public, the United Kingdom of Great Britain and Northern Ireland and the United States of America will, upon German request, remain stationed in Berlin by agreement to this effect between the Government of the united Germany and the Governments of the states concerned. The number of troops and the amount of equipment of all non-German Armed Forces stationed in Berlin will not be greater than at the time of signature of the present Treaty. New categories of weapons will not be introduced there by non-German Armed Forces. The Government of the united Germany will conclude with the Governments of those states which have armed forces stationed in Berlin treaties with conditions which are fair taking account of the relations existing with the states concerned.

(3) Following the completion of the withdrawal of the Soviet armed forces from the territory of the present German Democratic Republic and of Berlin, units of German armed forces assigned to military alliance structures in the same way as those in the rest of German territory may also be stationed in that part of Germany, but without nuclear weapon carriers. This does not apply to conventional weapon systems which may have other capabilities in addition to conventional ones but which in that part of Germany are equipped for a conventional role and designated only for such. Foreign armed forces and nuclear weapons or their carriers will not be stationed in that part of Germany or deployed there.

ARTICLE 6

The right of the united Germany to belong to alliances, with all the rights and responsibilities arising therefrom, shall not be affected by the present Treaty.

ARTICLE 7

(1) The French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America hereby terminate their rights and responsibilities relating to Berlin and to Germany as a whole. As a result, the corresponding, related quadripartite agreements, decisions, and practices are terminated and all related Four Power institutions are dissolved.

(2) The united Germany shall have accordingly full sovereignty over its internal and external affairs.

ARTICLE 8

(1) The present Treaty is subject to ratification or acceptance as soon as possible. On the German side it will be ratified by the united Germany. The Treaty will therefore apply to the united Germany.

(2) The instruments of ratification or acceptance shall be deposited with the Government of the united Germany. That Government shall inform the Governments of the other Contracting Parties of the deposit of each instrument of ratification or acceptance.

ARTICLE 9

The present Treaty shall enter into force for the united Germany, the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America on the date of deposit of the last instrument of ratification or acceptance by these states.

ARTICLE 10

The original of the present Treaty, of which the English, French, German and Russian texts are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall transmit certified true copies to the Governments of the other Contracting Parties.

ZU URKUND DESSEN haben die unterzeichneten, hierzu gehörig Bevollmächtigten diesen Vertrag unterschrieben.

GESCHEHEN zu Moskau am 12. September 1990

IN WITNESS WHEREOF, the undersigned plenipotentiaries, duly authorized thereto, have signed this Treaty.

DONE at Moscow this twelfth day of September 1990.

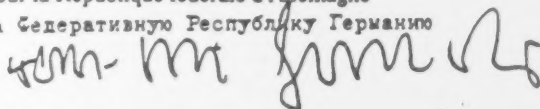
EN FOI DE QUOI, les plénipotentiaires soussignés, dûment habilités à cet effet, ont signé le présent Traité.

FAIT à Moscou, le 12 septembre 1990

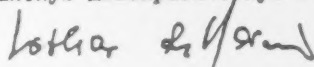
В УДОСТОВЕРЕНИЕ ЧЕГО нижеподписавшиеся, должным образом уполномоченные, подписали настоящий Договор.

СОБЕРЕНО в Москве, 12 сентября 1990 г.

Für die Bundesrepublik Deutschland
For the Federal Republic of Germany
Pour la République fédérale d'Allemagne
За Федеративную Республику Германию



Für die Deutsche Demokratische Republik
For the German Democratic Republic
Pour la République démocratique allemande
За Германскую Демократическую Республику



Für die Französische Republik
 For the French Republic
 Pour la République française
 За Французскую Республику

Roland Dumas

Für die Union der Sozialistischen Sowjetrepubliken
 For the Union of Soviet Socialist Republics
 Pour l'Union des Républiques socialistes soviétiques
 За Союз Советских Социалистических Республик

Leonid Brezhnev

Für das Vereinigte Königreich Großbritannien und Nordirland
 For the United Kingdom of Great Britain and Northern Ireland
 Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
 За Соединенное Королевство Великобритании и
 Северной Ирландии

Douglas Hurd

Für die Vereinigten Staaten von Amerika
 For the United States of America
 Pour les Etats-Unis d'Amérique
 За Соединенные Штаты Америки

James A. Baker III

AGREED MINUTE TO THE TREATY ON THE
FINAL SETTLEMENT WITH RESPECT TO
GERMANY OF 12 SEPTEMBER 1990

Any questions with respect to the application of the word "deployed" as used in the last sentence of paragraph 3 of Article 5 will be decided by the Government of the united Germany in a reasonable and responsible way taking into account the security interests of each Contracting Party as set forth in the preamble.

Für die Bundesrepublik Deutschland
For the Federal Republic of Germany
Pour la République fédérale d'Allemagne
За Федеративную Республику Германию

Harm-Mu Jann

Für die Deutsche Demokratische Republik
For the German Democratic Republic
Pour la République démocratique allemande
За Германскую Демократическую Республику

Lothar de Maizière

Für die Französische Republik
For the French Republic
Pour la République française
За Французскую Республику

Robert Dumas

Für die Union der Sozialistischen
Sowjetrepubliken
For the Union of Soviet Socialist Republics
Pour l'Union des Républiques socialistes
soviétiques
За Союз Советских Социалистических Республик

Message

Für das Vereinigte Königreich Großbritannien
und Nordirland
For the United Kingdom of Great Britain and
Northern Ireland
Pour le Royaume-Uni de Grande-Bretagne et
d'Irlande du Nord
За Соединенное Королевство Великобритании и
Северной Ирландии

Douglas Hurd

Für die Vereinigten Staaten von Amerika
For the United States of America
Pour les Etats-Unis d'Amérique
За Соединенные Штаты Америки

James A. Baker III

[TEXT OF LETTER FROM SECRETARY OF STATE JAMES A. BAKER III TO FOREIGN MINISTER HANS-DIETRICH GENSCHER DELIVERED BY EMBASSY BONN ON SEPTEMBER 11, 1990]

MR. FOREIGN MINISTER: With reference to the June 15, 1990 Joint Declaration by the Governments of the Federal Republic of Germany and the German Democratic Republic on the settlement of outstanding property matters and Article 41 of the Treaty of August 31, 1990 between the Federal Republic of Germany and the German Democratic Republic establishing German unity, I wish formally to confirm the position of the Government of the United States, as stated in the course of negotiations, as well as in prior discussions with both your Government and that of the German Democratic Republic, concerning compensation to United States citizens whose property was taken in the former Soviet Zone of occupation in Germany or in the Soviet sector of Berlin. Recognizing the domestic role of the future all-German Parliament, the United States Government is of the opinion that under international law claims of United States nationals that have been the subject of intergovernmental negotiations between the Governments of the United States and the German Democratic Republic, including such claims arising in the period 1945-49, must be resolved in intergovernmental discussions between the Governments of the United States and the Federal Republic of Germany. The United States Government understands that neither the aforementioned Declaration or Treaty, nor any arrangement made in connection with the forthcoming Final Settlement with respect to Germany, is intended to suggest any disagreement with the foregoing position.

Please accept, Mr. Foreign Minister, the assurances of our highest consideration.

JAMES A. BAKER III.

[Translation]

Moscow, 12 September 1990.

MR. FOREIGN MINISTER: In connection with the signing today of the Treaty on the Final Settlement with Respect to Germany we would like to inform you that the Governments of the Federal Republic of Germany and the German Democratic Republic declared the following in the negotiations:

1. The Joint Declaration of 15 June 1990 by the Governments of the Federal Republic of Germany and the German Democratic Republic on the settlement of outstanding property matters contains inter alia the following observations:

"The expropriations effected on the basis of occupation law or sovereignty (between 1945 and 1949) are irreversible. The Governments of the Soviet Union and the German Democratic Republic do not see any means of revising the measures taken then. The Government of the Federal Republic of Germany takes note of this in the light of the historical development. It is of the opinion that a final decision on any public compensation must be reserved for a future all-German parliament."

According to Article 41(1) of the Treaty of 31 August 1990 between the Federal Republic of Germany and the German Democratic Republic Establishing German Unity (Unification Treaty), the aforementioned Joint Declaration forms an integral part of the Treaty. Pursuant to Article 41(3) of the Unification Treaty, the Federal Republic of Germany will not enact any legislation contradicting the part of the Joint Declaration quoted above.

2. The monuments dedicated to the victims of war and tyranny which have been erected on German soil will be respected and will enjoy the protection of German law. The same applies to the war graves, which will be maintained and looked after.

3. In the united Germany, too, the free democratic basic order will be protected by the Constitution. It provides the basis for ensuring that parties which, by reason of their aims or the behavior of their adherents, seek to impair or abolish the free democratic basic order as well as associations which are directed against the constitutional order or the concept of international understanding can be prohibited. This also applies to parties and associations with National Socialist aims.

4. On the treaties of the German Democratic Republic, the following has been agreed in Article 12 (1) and (2) of the Treaty of 31 August 1990 between the Federal Republic of Germany and the German Democratic Republic Establishing German Unity:

"The Contracting Parties agree that, as part of the process of establishing German unity, the international treaties concluded by the German Democratic Republic shall be discussed with the contracting parties in terms of the protection of bona fide rights, the interests of the states concerned and the treaty obligations of the Federal Republic of Germany as well as in the light of the principles of a free democratic basic order founded on the rule of law and taking into account the re-

sponsibilities of the European Communities in order to regulate or ascertain the continuance, adjustment or termination of such treaties.

"The united Germany shall lay down its position on the continuance of international treaties of the German Democratic Republic after consultations with the respective contracting parties and with the European Communities in so far as their responsibilities are affected."

Accept, Mr. Foreign Minister, the assurances of our high consideration.

LOTHAR DE MAIZIERE.

HANS-DIETRICH GENSCHER.

THE FEDERAL MINISTER FOR FOREIGN AFFAIRS,
Bonn, 18 September 1990.

The Honorable JAMES A. BAKER III,
Secretary of State of the United States of America,
Washington, DC

DEAR JIM: In reply to your letters of 5 and 11 September and following up our conversation on 15 September, I wish to give you the following assurance on behalf of the Government of the Federal Republic of Germany with regard to questions of compensation and restitution.

Without prejudice to any other claim issue, the Government of the Federal Republic of Germany will resolve in intergovernmental discussions with the Government of the United States shortly after unification the claims of United States nationals that have been the subject of governmental negotiations between the Governments of the United States and the German Democratic Republic.

The Federal Republic of Germany will also seek to provide expeditious and satisfactory resolution of claims of Jewish victims of the Nazi regime against the German Democratic Republic shortly after unification.

Sincerely,

HANS-DIETRICH GENSCHER.

TREATY REFERENCE

Ordered. That the following treaty, with accompanying papers, be referred to the Committee on Foreign Relations:

(See attached—Treaty on the Final Settlement With Respect to Germany and a Related Agreed Minute—Treaty Doc. 101-20)

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO GERMANY AND A RELATED AGREED MINUTE

The Treaty on the Final Settlement With Respect to Germany and Its Related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990.

To the Senate of the United States:

I submit herewith, for Senate advice and consent to ratification, the Treaty on the Final Settlement with Respect to Germany and a Related Agreed Minute, signed by the United States, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990. I transmit also, for the information of the Senate, a report of the Department of State with respect to this Treaty.

The Treaty that I am submitting today is the culmination of 6 months' negotiation among its six signatories in what has come to be called the "two-plus-four" forum, established for this purpose at Ottawa in February 1990. This agreement will end the artificial division of Germany and Berlin; it provides for the full withdrawal of all Soviet forces over the next 4 years; and it terminates all remaining Four-Power rights and responsibilities for Berlin and for Germany as a whole. It thus creates the basis for the emergence of a united, democratic, and sovereign Federal Republic of Germany, capable and ready to assume a full and active partnership in the North Atlantic Alliance, the European Community, and in the many other forums for international cooperation to which the Federal Republic of Germany has already contributed significantly.

The Treaty makes clear that the current borders of the Federal Republic of Germany and German Democratic Republic shall be the final and definitive borders of a united Germany. All the provisions relating to Germany's border with Poland were worked out with the participation and approval of the Government of Poland.

The Treaty specifies that the right of a united Germany to belong to alliances with all the rights and responsibilities arising therefrom shall not be affected by any of its provisions.

The Treaty provides for the withdrawal of all Soviet troops from the territory of a united Germany by the end of 1994. The Treaty also provides for the continued presence of British, French, and American troops in Berlin during the interim period at the request of the German Government. During this period the German Government shall have complete freedom regarding the stationing of territorial defense units of its own armed forces within the territory of the former German Democratic Republic, and these armed forces shall remain outside the integrated NATO military command structure. Following the departure of Soviet troops by 1994, there shall be no remaining limitations regarding the location of German Armed Forces throughout Germany and their integration with NATO structures. Non-German allied forces and nuclear weapons systems shall not be stationed or deployed within the territory of the present German Democratic Republic. The Agreed Minute, for which I am also seeking your advice and consent, provides a special rule for application of the term "deployed."

The Treaty contains a number of assurances provided by the Federal Republic of Germany and the German Democratic Republic on behalf of a united Germany. Among these are a reaffirmation of their renunciation of nuclear, biological, and chemical weapons, and their stated undertaking to reduce the personnel strength of the German Armed Forces to 370,000 within 3 to 4 years.

Finally, the Treaty provides for the termination of all remaining Four-Power rights and responsibilities for Berlin and Germany as a whole.

I would also like to draw to the attention of the Senate the texts of three letters that were exchanged on issues arising in the context of the unification of Germany (enclosed as attachments to the report of the Department of State). The first is a letter from Secretary of State Baker to Foreign Minister Genscher of the Federal Republic of Germany dated September 11, 1990; the second letter is a letter from Foreign Minister Genscher and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic to their counterparts in the two-plus-four negotiations dated September 12, 1990; and the third is a letter dated September 18, 1990, from Foreign Minister Genscher to Secretary Baker.

In their letter of September 12 to their counterparts in the two-plus-four negotiations, Foreign Minister Genscher of the Federal Republic of Germany and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic formally convey several additional assurances. Among these are their declaration that the constitution of a united Germany will protect the free democratic order and provide the continuing basis for prohibiting parties and associations with National Socialist aims. In his letter of September 18 to Secretary Baker, Foreign Minister Genscher also makes clear that the Government of a united Germany accepts responsibility for the resolution of unresolved claims against the German Democratic Republic, both of American citizens, and of Jewish victims of the Nazi regime. In this letter he commits his government to seek, shortly after unification, to provide expeditious and satisfactory resolution of claims of Jewish victims of the Nazi regime against the German Democratic Republic. In this same letter he states that the Federal Republic of Germany will, shortly after unification, resolve through negotiations with the United States Government the claims of United States nationals that were previously under discussion with the German Democratic Republic. The commitments contained in these two letters are further evidence that the Government of the united Germany will sustain and build on the exemplary record of the Federal Republic of Germany in promoting democratic values. The Treaty represents a major achievement for our German allies, who have not forgotten the past or the role Germany once played in the horrors of 1933-45, but who have demonstrated over four decades of steadfast support for democracy and the Western alliance what the world can expect from the united Germany.

The Treaty is also a tribute to the courage and the determination of the people of Germany to achieve unity in peace, freedom, and concord with their neighbors.

The emergence of a free, united, and democratic Germany, linked to the United States and to its European neighbors by indissoluble ties of friendship, common values, and mutual interests, and ready to act as a full partner within a broader community of democratic nations, has been an enduring goal of American foreign policy for over 40 years. Seldom has any President had the privilege of submitting

for the Senate's advice and consent an agreement which so fully realizes our national purposes. This agreement is the result of decades of steadfast effort and resolve on the part of past Presidents and Congresses, and our allies. It is an achievement of which we can all be proud.

It is wholly fitting that Germany formally and irrevocably achieve its unified status at the earliest possible moment, unfettered by Four-Power rights, shared by the Soviet Union, which are now outmoded and unnecessary. I therefore ask the Senate to act expeditiously in giving its advice and consent to ratification of the Treaty and the Related Agreed Minute.

GEORGE BUSH.

DEPARTMENT OF STATE,
WASHINGTON, DC,
September 24, 1990.

The PRESIDENT:

I have the honor to submit to you the Treaty on the Final Settlement with Respect to Germany and its related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990. This Treaty affirms the final borders of the united Germany, provides for the withdrawal of all Soviet forces over the next 4 years, effectively allows the united Germany to be a full, active member of NATO and terminates all reserved rights hitherto held by the United States, Great Britain, France and the Soviet Union ("the Four Powers"). I would also like to draw your attention to the texts of three letters which were exchanged on issues arising from the unification of Germany. The first is a letter from Secretary of State Baker to Foreign Minister Genscher of the Federal Republic of Germany dated September 11, 1990; the second is a letter from Foreign Minister Genscher and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic to their counterparts in the two-plus-four negotiations dated September 12, 1990; and the third is a letter dated September 18, 1990 from Foreign Minister Genscher to Secretary Baker.

In agreements concluded during and immediately after the Second World War, the Four Powers agreed that Germany, as part of its unconditional surrender, would be occupied by them. The Soviets occupied what is now the German Democratic Republic, and the former British, French, and American zones now comprise the Federal Republic of Germany. The Western allies were careful to make clear from the very beginning of their occupation that they were not annexing Germany, that "Germany" as a state would continue to exist under international law and that they reserved a voice in Germany's ultimate boundaries.

The Federal Republic of Germany was founded with the approval of the three Western allies on September 21, 1949. In the Convention on Relations with the Federal Republic of Germany, the three Western allies stated that it was their essential aim to have "a unified Germany enjoying a liberal-democratic constitution." Pursuant to this Convention, the Western allies ended the occupation regime in the Federal Republic of Germany on May 5, 1955, explicitly reserving their rights with respect to Germany as a whole, a peace treaty, the setting of Germany's ultimate boundaries and Berlin.

On October 7, 1949, the Soviets authorized the establishment of the German Democratic Republic. The Soviet Union formally granted sovereignty to the German Democratic Republic on March 25, 1954.

As a result of wartime agreements, Berlin was similarly divided into four sectors to be occupied by the Four Powers and jointly governed by the Allied Kommandatura ("AK"), made up of the military commandants of the Four Powers. Even though the Soviets left the AK on July 1, 1948, the AK remains the supreme authority with respect to all of Greater Berlin. But since 1948 the Western allies have been able to exercise their authority through the AK in practice only in the Western sectors of Berlin.

Berlin was never formally included as a state in the Federal Republic of Germany. Moreover, even though the German Democratic Republic claimed the Soviet sector, East Berlin, as its capital, the Western allies have never recognized the incorporation of the Soviet sector of East Berlin into East Germany.

Although Berlin was not formally incorporated into the Federal Republic of Germany and legally remains under the Four-Power status established immediately after the war, the Western sectors of Berlin have been increasingly incorporated into the legal, economic, and social structure of the Federal Republic of Germany.

The allies have maintained a range of rights with respect to Berlin in order to assure access to and the security of Berlin. The allies continue to exercise rights regarding Berlin in three main areas: access and free circulation; demilitarization; and security and intelligence functions. Of these, access (particularly air access) has been the most crucial area since the 1948 Soviet blockade of Berlin. In 1971 the Four Powers concluded the Quadripartite Agreement on Berlin, which left the divergent legal views on Berlin and Germany as a whole untouched, but which largely removed Berlin as a friction point and brought about considerable practical improvements in civilian access, communication, trade, and other areas between West Berlin and the Federal Republic of Germany.

Dramatic developments in Eastern Europe that began in the fall of 1989, including the peaceful revolution in East Germany, the opening of the Berlin Wall, and the decision by the people of East Germany to join West Germany and thus unify under one free and democratic German state, set the stage for final resolution of the open questions concerning Germany. On February 13, 1990, the foreign ministers of the two German states and of the Four Powers agreed to commence what became known as the "two-plus-four" negotiations to address the external issues regarding Germany and German unification.

The six Foreign Ministers met four times in the ensuing months, on May 5 in Bonn, on June 22 in Berlin, on July 17 in Paris and on September 12 in Moscow. There were also 10 meetings of the two-plus-four at subministerial level. The Foreign Minister of Poland also participated in that part of the July 17 ministerial meeting that dealt with the Polish-German border, as did a senior official of the Polish Foreign Ministry at the July meeting of the two-plus-four at subministerial level.

From the perspective of the United States, this Treaty needed to address the basic outstanding questions concerning Germany: the unambiguous establishment of a democratic, united Germany enjoying sovereignty over its internal and external affairs, the establishment of definitive German borders, and the complete renunciation of all reserved Four-Power rights left over from the Second World War.

The Treaty fulfills our goals in all respects. It ends the artificial division of Germany and Berlin; it provides for the full withdrawal of all Soviet forces over the next 4 years; and it terminates all remaining Four-Power rights and responsibilities for Berlin and for Germany as a whole. It creates the basis for the emergence of a united Germany, democratic and free, including its right to choose its membership in the NATO alliance. The Treaty also makes clear that the current external borders of the Federal Republic of Germany and German Democratic Republic shall be the final and definitive borders of a united Germany.

The preamble to the Treaty takes note of the fact that the parties have been living in peace for the past 45 years and of the recent historic changes in Europe. It recalls, *inter alia*, the parties' obligations under the United Nations Charter and the principles of the Final Act of the Helsinki Conference on Security and Cooperation in Europe and confirms their readiness to reinforce everyone's security, in particular by adopting effective arms control, disarmament, and confidencebuilding measures. It also welcomes the decision of the German people to live in a democratic, unified state and states the intent of the parties to conclude the final settlement with respect to Germany.

Article 1 establishes that the external borders of the Federal Republic of Germany and the German Democratic Republic shall be the external borders of the united Germany, definitive from the date on which the Treaty comes into force. The article also includes the German assurance that the united Germany has no territorial claims whatsoever against other states, now or in the future; that Germany and Poland shall confirm the existing border between them in a treaty that is binding under international law; and that the constitution of the united Germany shall not contain provisions inconsistent with the border principles set forth in the Treaty.

Article 2 contains assurances from the two German states that only peace will emanate from German soil, that according to the constitution of the united Germany acts which disturb the peace will be unconstitutional and a punishable offense and that the united Germany will never employ any of its weapons except in accordance with its constitution and the Charter of the United Nations.

Certain German assurances and statements regarding arms control are contained in article 3. Specifically, article 3 includes the two German states' reaffirmation of their renunciation of the manufacture and possession of and control over nuclear, biological, and chemical weapons, as well as their commitment that the united Germany will also abide by these commitments. Article 3 also includes a statement made in Vienna at the Negotiations on Conventional Armed Forces in Europe by the Federal Republic of Germany, in full agreement with the Government of the

German Democratic Republic, that the armed forces of the united Germany shall be reduced to 370,000 within 3 to 4 years, commencing on the entry into force of the first Conventional Armed Forces in Europe Agreement.

The Governments of the two German states and the Soviet Union state in article 4 that they will settle by treaty the conditions for and the duration of the presence of Soviet Armed Forces on the territory of the present German Democratic Republic and of Berlin, as well as the conduct of the withdrawal of these armed forces which will be completed by the end of 1994.

Article 5 of the Treaty deals with the stationing of troops and military activity in the present territory of the German Democratic Republic and Berlin both during and after the Soviet withdrawal from that territory. It provides that only German territorial defense units not integrated into the North Atlantic Treaty Organization shall be stationed in that territory until the completion of the withdrawal of Soviet Armed Forces in accordance with the Soviet commitment to withdraw their forces by the end of 1994. Article 5 also states that the Government of the united Germany will reach agreement with the Western allies on the continued stationing of the forces of the United States, United Kingdom, and France in Berlin for the period of the Soviet presence. The Treaty also provides that the number of non-German troops and the amount of their equipment will not be greater than at the time of signature of the Treaty and they will not introduce new categories of weapons.

Article 5 further provides that following the withdrawal of Soviet troops, German Armed Forces fully integrated into any alliance structure to which Germany is a member may be stationed in that part of Germany. German forces may not introduce into that part of Germany nuclear weapons carriers. This does not, however, preclude the introduction of "conventional weapon systems which may have other capabilities in addition to conventional ones but which in that part of Germany are equipped for a conventional role and designated only for such." Also pursuant to article 5, foreign armed forces and nuclear weapons or their carriers will not be stationed in that part of Germany or deployed there after the Soviet withdrawal. An Agreed Minute to the Treaty provides that application of the word "deployed" as used in this article for the period after Soviet withdrawal shall be decided by the Government of the united Germany "in a reasonable and responsible way taking into account the security interests of each Contracting Party as set forth in the preamble."

Article 6 preserves the united Germany's right to belong to alliances, with all the rights and responsibilities arising therefrom.

The Four Powers terminate their rights and responsibilities relating to Berlin and to Germany as a whole in article 7. Accordingly, the corresponding, related quadripartite agreements, decisions and practices are terminated and all related Four-Power institutions are also dissolved.

Article 8 provides that the Treaty shall be ratified or accepted by the parties and, in the German case, by the Parliament of the united Germany as soon as possible.

The Treaty shall enter into force, in accordance with article 9, on the date of deposit of the last instrument of ratification or acceptance by the united Germany, the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Article 10 provides that the original of the Treaty shall be deposited with the Government of the Federal Republic of Germany and that all four language texts are authentic.

I recommend that you transmit this Treaty, with its Agreed Minute, to the Senate with the recommendation that the Senate give its advice and consent at an early date.

Respectfully submitted,

JAMES A. BAKER III.

LIST OF AGREEMENTS, DECISIONS, AND PRACTICES TERMINATED UNDER ARTICLE VII

Article 7 of the Treaty terminates Four-Power rights and responsibilities concerning Berlin and Germany as a whole. As a result, all quadripartite agreements, decisions and practices related to these Four-Power rights and responsibilities are terminated.

Included among the agreements that are thus terminated are:

- the London Protocol of September 12, 1944,
- the Agreement on Control Machinery in Germany of November 14, 1944,
- the Declaration Regarding the Defeat of Germany and the Assumption of Supreme Authority by the Allied Powers of June 5, 1945,

—the Allied Statement on Zones of Occupation in Germany and the occupation of "Greater Berlin" of June 5, 1945

—the Allied Agreement on The Quadripartite Administration of Berlin of July 7, 1945,

—the Agreement Further Amending the Protocol of September 12, 1944 to Include France in the Occupation of Germany and Administration of "Greater Berlin" of July 26, 1945

—the Agreement by the Deputies to the Allied Commanders-in-Chief in Germany on Activation of the Control Machinery of July 31, 1945

—and the Quadripartite Agreement of September 3, 1971;

Included among the decisions and practices that are terminated are:

—those governing air, land and sea access to and from Berlin and the Federal Republic of Germany,

—those governing the freedom of movement within the four occupation Sectors of Greater Berlin,

—those governing the demilitarization and security of Berlin, and

—those governing the relationship of Berlin and the Federal Republic of Germany

—and all the Four-Power legislation and directives issued by the Allied Control Council and the Allied Kommandatura in Berlin

The above list of categories of decisions and practices thus includes such documents as:

—the Decision of the Control Council Approving the Establishment of Air Corridors of November 30, 1945,

—the Decision of the Air Directorate Amending Draft Regulations Governing Flights in the Air Corridors in Germany and the Berlin Control Zone of December 18, 1945 and,

—the General Principles for the Control of Navigation Between Zones on the Inland Waterways of Germany, Approved by the Coordinating Committee on May 16, 1946.

AGREEMENT
ON THE SETTLEMENT OF CERTAIN MATTERS
RELATING TO BERLIN

The Government of the Federal Republic of Germany and the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America ("the three States"),

Acting on the basis of their long-standing friendly relations;

Appreciating their shared commitment to the freedom and unity of Berlin;

Noting that the achievement of the unity of Germany in peace and freedom also means the definitive termination of the division of Berlin;

Recognizing that with the conclusion of the Treaty on the Final Settlement with respect to Germany and the establishment of German unity quadripartite rights and responsibilities relating to Berlin lose their function and that the united Germany will have full sovereignty over its internal and external affairs;

Considering it necessary to agree in certain areas on relevant provisions, which do not affect German sovereignty in respect of Berlin;

Having regard to the Agreement concluded between the four Governments concerning the presence, for a limited period, of the forces of the three States in Berlin;

Have agreed as follows:

ARTICLE 1

(1) The term "Allied Authorities" as used in this Agreement means:

(a) the Control Council, the Allied High Commission, the High Commissioners of the three States, the Military Governors of the three States, the Armed Forces of the three States in Germany, and organizations and persons who have exercised authority on their behalf or, in the case of international organizations and organizations representing other States (and the members of such organizations), who have acted with their authorization, and auxiliary contingents of other States who have served with the Armed Forces of the three States; and

(b) the Allied Kommandatura Berlin, the Commandants of the American, British and French Sectors of Berlin, as well as institutions and persons who have exercised authority on their behalf.

(2) The term "Allied Forces" as used in this Agreement means:

(a) the Allied Authorities referred to in paragraph (1) in so far as they acted in or in respect of Berlin;

(b) members of the American, British and French Armed Forces in Berlin;

(c) non-German nationals who served with the Allied Authorities in a military or civil capacity; and

(d) members of the families of, and non-German nationals who were in the service of, the persons referred to in sub-paragraphs (b) and (c).

(3) The official text or texts of legislation referred to in this Agreement shall be the text or texts which was or were official at the time of enactment.

(4) Where in this Agreement there is a reference to quadripartite rights and responsibilities ceasing to have effect, this shall be construed as a reference to the suspension of the operation of quadripartite rights and responsibilities or, if there is no such suspension, the entry into force of the Treaty on the Final Settlement with respect to Germany.

ARTICLE 2

All rights and obligations created or established by or under legislative, judicial or administrative action of the Allied Authorities in or in respect of Berlin are and shall remain valid for all purposes under German law whether or not their creation or establishment was in conformity with other legislation. Such rights and obligations shall be subject without discrimination to the same future legislative, judicial and administrative measures as similar rights and obligations created or established by or under German law.

ARTICLE 3

(1) German courts or authorities may exercise such jurisdiction as they have under German law in respect of any proceedings relating to an act or omission which occurred in or in respect of Berlin before quadripartite rights and responsibilities ceased to have effect, unless otherwise stipulated in this Article.

(2) German courts or authorities shall have no jurisdiction under paragraph (1) over the following institutions and persons, even if their official functions have ended, or in the following proceedings:

(a) the Allied Authorities;

(b) members of the Allied Forces in non-criminal proceedings relating to an act or omission which occurred in the exercise of their official functions.

(c) members of the Allied Forces in criminal proceedings, unless the State concerned consents to the initiation of proceedings;

(d) judges of the courts established by the Allied Authorities in Berlin and other court personnel who were similarly exempt from German jurisdiction, in so far as they acted in the exercise of their official duties;

(e) members of the Military Missions and Delegations accredited to the Control Council in proceedings relating to an act or omission which occurred in the exercise of their official functions;

(f) proceedings for which the authorization required under Law No. 7 of the Allied Kommandatura Berlin of 17 March 1950 for the exercise of German jurisdiction was denied;

(g) other proceedings relating to an act or omission which occurred in the exercise of official functions for the Allied Forces.

(3) Whenever in any proceedings to which paragraph (2) applies a question arises whether or not a person has acted in the exercise of his official duties or functions, proceedings shall be permitted only on the basis of certification by the State concerned that the act or omission in question did not occur in the exercise of his official duties or functions.

(4) The German courts shall, in accordance with German law, have jurisdiction over disputes arising from employment contracts (including social security disputes relating thereto), or arising from contracts for the supply of goods or services, concluded before quadripartite rights and responsibilities ceased to have effect. Actions against the authorities of the three States shall be brought against the Federal Republic of Germany. Actions by such authorities shall be instituted by the Federal Republic of Germany.

ARTICLE 4

All judgments and decisions rendered in or in respect of Berlin by any tribunal or judicial body established by the Allied Authorities or any of them before quadripartite rights and responsibilities ceased to have effect shall remain final and valid for all purposes under German law and shall be treated by German courts and authorities as judgments and decisions rendered by German courts and authorities.

ARTICLE 5

(1) The Federal Republic of Germany shall not assert against the three States or any one of them, or against institutions or persons in so far as they acted on behalf of or under the authority of the three States or any of them, claims of any kind arising out of acts or omissions in or in respect of Berlin of the three States or any one of them, or such institutions or persons, which occurred before quadripartite rights and responsibilities ceased to have effect.

(2) The Federal Republic of Germany recognizes that, subject to Article 3 of this Agreement, claims described in paragraph (1) shall not be asserted by persons subject to its jurisdiction.

(3) The Federal Republic of Germany assumes responsibility for the decision and satisfaction of claims for compensation for occupation damages sustained in or in respect of Berlin before quadripartite rights and responsibilities ceased to have effect and for which compensation would have been payable under the provisions of Ordinance No. 508 issued by the Commandants of the American, British and French Sectors on 23 May 1951, as amended and implemented by subsequent Ordinances and Regulations, in so far as such claims have not already been settled. The Federal Republic of Germany will determine which of the other claims referred to in paragraph (2), in so far as they arose in or in respect of Berlin, should appropriately be satisfied and will take such measures as are necessary for the determination and satisfaction of such claims.

ARTICLE 6

(1) Subject to paragraphs (2) and (3), questions of movable and immovable property arising from the suspension of the operation, or termination, of quadripartite rights and responsibilities relating to Berlin shall be dealt with in the context of the Agreement concerning the presence, for a limited period, of forces of the three States in Berlin, including its Annexes.

(2) At the end of the transitional periods provided for in Annex 2 of the said Agreement, the three States shall have the opportunity to continue to use such property as may be needed by their diplomatic and consular establishments, if appropriate arrangements (rental, exchange of property or purchase) can be agreed.

(3) In accordance with established procedures, if movable property is no longer needed for the purposes set out in the said Agreement including its Annexes, and if the State concerned does not wish to purchase, exchange or rent it, such property shall be returned to the competent German authority.

ARTICLE 7

(1) To the extent necessary to conclude any business pending before it when quadripartite rights and responsibilities cease to have effect, the "Tribunal français de simple police de Berlin" shall exercise its jurisdiction pursuant to the legal provisions heretofore in force. The "Tribunal français de Berlin" shall exercise jurisdiction over appeals against decisions of the "Tribunal français de simple police de Berlin".

(2) The jurisdiction referred to in paragraph 1 shall terminate in the case of the "Tribunal français de simple police de Berlin" six months, and in the case of the "Tribunal français de Berlin" ten months, after quadripartite rights and responsibilities cease to have effect.

(3) Article 3, paragraph (2) (d), and Article 4 of this Agreement shall apply correspondingly.

ARTICLE 8

Any Party may, at any time, request consultations among the Parties regarding the interpretation or application of this Agreement. Such consultations shall begin within 30 days from the notification of the request to the other Parties.

ARTICLE 9

Any Party may request a review of this Agreement. Discussions shall begin within three months from the notification of the request to the other Parties.

ARTICLE 10

Notwithstanding Article 11 of this Agreement the signatory Governments agree that this Agreement shall be applied provisionally, until its entry into force, from the time when quadripartite rights and responsibilities cease to have effect.

ARTICLE 11

(1) This Agreement is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Federal Republic of Germany. That Government shall inform the other signatory Governments of the deposit of each instrument of ratification, acceptance or approval.

(2) This Agreement shall enter into force on the date of deposit of the last instrument of ratification, acceptance or approval.

(3) The original of this Agreement, of which the English, French and German texts are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall transmit certified true copies to the other signatory Governments.

ZU URKUND DESSEN haben die unterzeichneten, hierzu
gehörig Bevollmächtigten dieses Übereinkommen
unterschrieben.

GESCHEHEN zu Bonn am 25. September 1990

IN WITNESS WHEREOF, the undersigned plenipotentiaries,
being duly authorized thereto, have signed this
Agreement.

DONE at Bonn this twenty-fifth day of September 1990

EN FOI DE QUOI, les plénipotentiaires soussignés, dûment
habilités à cet effet, ont signé le présent Accord.

FAIT à Bonn, le 25 septembre 1990

Für die Regierung der Bundesrepublik Deutschland
For the Government of the Federal Republic of Germany
Pour le Gouvernement de la République fédérale
d'Allemagne

Carsten Sellmann

Für die Regierung der Französischen Republik
For the Government of the French Republic
Pour le Gouvernement de la République française

Jean-Marie

Für die Regierung der Vereinigten Staaten von Amerika
 For the Government of the United States of America
 Pour le Gouvernement des Etats-Unis d'Amérique

Keen A. Wallis

Für die Regierung des Vereinigten Königreichs
 Großbritannien und Nordirland
 For the Government of the United Kingdom of Great Britain
 and Northern Ireland
 Pour le Gouvernement du Royaume-Uni de Grande-Bretagne et
 d'Irlande du Nord

Christopher Wallis

EMBASSY OF THE
UNITED STATES OF AMERICA

September 25, 1990

Excellency,

I have the honor to acknowledge receipt of your Note of today's date concerning the Convention on the Presence of Foreign Forces in the Federal Republic of Germany of October 23, 1954, the English text of which reads as follows:

"I have the honour to refer to the discussions which have taken place between representatives of the Governments of the Federal Republic of Germany, the Kingdom of Belgium, Canada, the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America concerning the Convention on the Presence of Foreign Forces in the Federal Republic of Germany of 23 October 1954 ("the Convention") and, on behalf of the Government of the Federal Republic of Germany, to propose to the Governments of the Kingdom of Belgium, Canada, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America the following:

"1. The Convention shall remain in force, subject to paragraphs 2 and 3 below, following the establishment of German unity and the conclusion of the Treaty on the Final Settlement with respect to Germany, signed on 12 September 1990. The existing territorial application of the Convention shall remain unaffected by the establishment of German unity.

His Excellency

Dr. Hans Werner Lautenschlager,

State Secretary,

Ministry of Foreign Affairs,

Federal Republic of Germany.

- *2. The Convention will be reviewed by the Parties at the request of any Party.
- *3. Any stationing Party may withdraw from the Convention upon two years' notice to the other Parties. The Federal Republic of Germany may terminate the Convention in respect of one or more Parties upon two years' notice to the Parties.

"If the Governments of the Kingdom of Belgium, Canada, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America agree to the content of this Note, this Note and the Notes in reply thereto expressing your Governments' agreement shall constitute an Agreement between our Governments.

The English and French texts of this Note are attached hereto, all three texts being equally authentic."

I have the honor to inform you that the Government of the United States of America agrees to the content of Your Excellency's Note. Accordingly, Your Excellency's Note, this reply and the replies of the Ambassador of the Kingdom of Belgium, of the Ambassador of Canada, of the Ambassador of the Kingdom of the Netherlands and of the Ambassador of the United Kingdom of Great Britain and Northern Ireland expressing their Governments' agreement shall constitute an Agreement between our Governments, which shall enter into force today.

Accept, Excellency, the renewed assurances of my highest consideration.

Wm. J. Walters

EMBASSY OF THE
UNITED STATES OF AMERICA

September 25, 1990

Excellency:

I have the honor to acknowledge receipt of your Note of today's date concerning the Agreement of June 19, 1951 between the Parties to the North Atlantic Treaty regarding the Status of their Forces, the Agreement of August 3, 1959 to supplement that Agreement with respect to foreign forces stationed in the Federal Republic of Germany and the Agreements related thereto, the English text of which reads as follows:

"I have the honour to refer to the discussions which have taken place between representatives of the Governments of the Federal Republic of Germany, the Kingdom of Belgium, Canada, the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America concerning the Agreement of 19 June 1951 between the Parties to the North Atlantic Treaty regarding the Status of their Forces, the Agreement of 3 August 1959 to supplement that Agreement with respect to foreign forces stationed in the Federal

His Excellency

Dr. Hans Werner Lautenschlager,

State Secretary,

Ministry of Foreign Affairs,

Federal Republic of Germany.

Republic of Germany ("the Supplementary Agreement"), and the Agreements related thereto. I have the honour to propose on behalf of the Government of the Federal Republic of Germany that your Governments note that:

"1. Following the establishment of German unity and the conclusion of the Treaty on the Final Settlement with respect to Germany, signed on 12 September 1990, the above-mentioned Agreements remain in force, subject to paragraphs 2 and 4 below.

"2. According to Article 82 of the Supplementary Agreement, any Party may request a review of that Agreement; in this case such a review shall be opened within a period not to exceed three months after submission of the request. The Parties are currently studying this matter, bearing in mind developments in Europe and in Germany, notably the implementation of force reductions and the attainment of German unity.

"3. In the application of these Agreements due account will be taken of the developments mentioned in the previous paragraph.

"4. a) Taking account of the fact that the existing territorial application of these Agreements shall remain unaffected by the establishment of German unity, any official activity by the forces of the sending States, their civilian components, their members and dependents in the Laender Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt and Thuringia, with the exception of travel to and from Berlin, shall only occur with the express consent of the German authorities. Private activities by any member of their forces or civilian components or by any dependent shall not require consent.

b) The forces of the sending States, their civilian components, their members and dependents shall enjoy in the above-mentioned Laender the same status as that accorded to them in the Laender Baden-Wuerttemberg, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein.

c) The provisions of this paragraph shall apply in Berlin for the Belgian, Canadian and Netherlands' forces, their civilian components, their members and dependents when Quadripartite rights and responsibilities cease to have effect. The Federal Republic of Germany, the Kingdom of Belgium, Canada, and the Kingdom of the Netherlands shall develop as soon as possible additional arrangements in the spirit of this Agreement.

d) If differences arise between the Parties to this Agreement relating to the practical application of this paragraph, they shall be settled by a consultative group consisting of representatives from the Federal Republic of Germany and any other Party directly concerned.

e) The provisions of this paragraph shall be reviewed at the expiry of the period referred to in Article 4, paragraph 1, of the Treaty on the Final Settlement with respect to Germany, or earlier, should the Parties to this Agreement so agree.

"If the Governments of the Kingdom of Belgium, Canada, the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America agree to the content of this Note, this Note and the Notes in reply thereto expressing your Governments' agreement shall constitute an Agreement between our Governments, which shall enter into force, following completion of the necessary constitutional requirements in the Federal Republic of Germany, when German unity is established.

"The English and French texts of this Note are attached hereto, all three texts being equally authentic."

I have the honor to inform you that the Government of the United States of America agrees to the content of your Excellency's Note. Accordingly, your Excellency's Note, this reply and the replies of the Ambassador of the Kingdom of Belgium, of the Ambassador of Canada, of the Ambassador of the French Republic, of the Ambassador of the Kingdom of the Netherlands and of the Ambassador of the United Kingdom of Great Britain and Northern Ireland expressing their Governments' agreement shall constitute an Agreement between our governments, which shall enter into force, following completion of any necessary constitutional requirements in the Federal Republic of Germany, when German unity is established.

Accept, Excellency, the renewed assurances of my highest consideration.

Wm. A. Walters

EMBASSY OF THE
UNITED STATES OF AMERICA

September 25, 1990

Excellency,

I have the honor to acknowledge receipt of your Note of today's date concerning the presence in Berlin of armed forces of the French Republic, of the United Kingdom of Great Britain and Northern Ireland and of the United States of America, the English text of which reads as follows:

"I have the honour to refer to the discussions which have taken place recently between representatives of the Governments of the Federal Republic of Germany, the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America. These discussions took place following the request by the Government of the Federal Republic of Germany that armed forces of the other three States should remain in Berlin.

"The presence of these forces will demonstrate the continued solidarity of the other three States with the Federal Republic of Germany and especially with the city of Berlin and its inhabitants in contributing to the security of Berlin. I accordingly have the honour to propose on behalf of the Government of the Federal Republic of Germany the following:

Hie Excellency

Dr. Hans Werner Lautenschlager,

State Secretary,

Ministry of Foreign Affairs,

Federal Republic of Germany.

- *1. The Federal Republic of Germany, the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America agree to the presence, for a limited period, of forces of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America in Berlin.
- *2. The French, United Kingdom and United States forces may be present in Berlin up to their respective levels (personnel and military equipment) in effect on 12 September 1990.
- *3. The French, United Kingdom and United States forces, their civilian components, their members and dependents in Berlin or moving between Berlin and the Laender Baden-Wuerttemberg, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein shall enjoy the same status as that accorded to them in those Laender.
- *4. The Federal Republic of Germany shall guarantee to the French, United Kingdom and United States forces in Berlin in accordance with the relevant German legislation the continued availability at no cost of facilities and accommodation which are necessary for the fulfilment of their mission. Facilities and accommodation used until now, but no longer necessary for the fulfilment of this mission, shall be released to the German authorities as soon as possible.
- *5. The French, United Kingdom and United States forces in Berlin shall closely coordinate all activities with the competent German authorities on the understanding that primary responsibility for ensuring the security of Berlin rests with German authorities. For this purpose, they shall establish appropriate liaison arrangements.
- *6. The Federal Republic of Germany shall provide facilities for the training of the French, United Kingdom and United States forces in accordance with respective national training standards and with the principles in Annex 1 to this Agreement.
- *7. The Federal Republic of Germany shall provide for costs of the French, United Kingdom and United States force related to the fulfilment of their mission, in accordance with the principles in Annex 2 to this Agreement and as may subsequently be agreed between the Parties concerned.
- *8. The Federal Republic of Germany shall guarantee and facilitate air movements to and from Berlin and surface movements between Berlin and the Laender Baden-Wuerttemberg, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony,

North-Rhine/Westphalia,
Rhineland-Palatinate, Saarland and
Schleswig-Holstein by French, United
Kingdom and United States forces.

- "9. The Federal Republic of Germany, the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America agree to develop, as soon as possible, any additional arrangements that may be needed to carry out the provisions of this Agreement.
- "10. This Agreement may be reviewed by the Parties thereto at the request of any Party for the purpose of reaching agreement on modification or amendment at any time after an initial period of twelve months after its entry into force.
- "11. This Agreement may be terminated upon twelve months' written notice by any Party to the other Parties. If the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America agree to the content of this Note, this Note, including its Annexes, and the Notes in reply thereto expressing your Governments' agreement shall constitute an Agreement between our four Governments, which shall enter into force, following completion of any necessary constitutional requirements, when Quadripartite rights and responsibilities cease to have effect. Each Government shall notify the others of the completion of its constitutional requirements.

"The English and French texts of this Note and its Annexes are attached hereto, all three texts being equally authentic.

*Annex 1

*Principles for Training

- *1. The French, United Kingdom and United States forces in Berlin shall continue to control and maintain training facilities for which they were responsible on 12 September 1990. In addition, they shall, subject to paragraph 4 of this Annex, continue to enjoy the use of training areas in Berlin which were available to them on 12 September 1990.
- *2. Individual training and collective training up to and including battalion task force/ battalion group level shall continue to be accomplished utilising the existing training facilities and areas inside Berlin.
- *3. The future training area requirements shall take into account the size and composition of the French, United Kingdom and United States forces in Berlin.
- *4. Any reductions in the times, places and types of training in Berlin for French, United Kingdom and United States forces shall be effected by bilateral agreement between authorities of the respective forces and the competent German authorities.
- *5. The competent German authorities shall facilitate the use of replacement training facilities and areas by the forces of France, the United Kingdom and the United States stationed in Berlin. Their suitability shall be determined by bilateral agreement between the competent German authorities and the authorities of the forces of France, the United Kingdom and the United States respectively.
- *6. Should the use of required replacement training facilities and areas involve additional costs, the competent German authorities shall provide sufficient funds to offset such costs to the forces of France, the United Kingdom and the United States in Berlin in accordance with the Principles for Funding in Annex 2 to this Agreement.

"Annex 2

"Principles for Funding

- "1. The Federal Republic of Germany shall continue to pay for the same categories of expenditure as at present, the funding to be adjusted as appropriate to take account of the termination of Quadripartite rights and responsibilities, and of any reductions in force levels and civilian employees.
- "2. The expenditure requirements of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America ("the three States") shall be established annually on a bilateral basis and the funding confirmed by the Federal Republic of Germany following completion of its budgetary procedures. The three States accept that their requirements may need to be presented in greater detail. They shall estimate their costs, in accordance with their national standards, at the lowest level consistent with the mission of their forces. The agreed principles of budgetary management shall otherwise be applied. Expenditure shall be audited according to national standards. The three States shall as appropriate take into consideration the requirements of the Bundesrechnungshof (the Federal Audit Agency), as communicated through the relevant channels.
- "3. Expenditure on individual institutions associated with Quadripartite rights and responsibilities, including the missions of the three States, shall be phased out over agreed transitional periods by no later than 31 December 1991.
- "4. The Federal Republic of Germany shall bear the costs of dissolving the institutions of the three States whose functions cease to exist, and for the continuation of any functions requested by the Federal Republic of Germany. Separate arrangements shall apply for the latter.
- "5. During the transitional periods referred to in paragraph 3, the Federal Republic of Germany guarantees the continued availability at no cost of property hitherto associated with the exercise of Quadripartite rights and responsibilities.
- "6. The Federal Republic of Germany accepts that during the transitional periods the present Berlin Tariff Agreement arrangements shall

continue for those employees to whom they apply at present. Non-Berlin Tariff Agreement employees who are made redundant shall be treated as sympathetically as possible.

- *7. The three States are prepared in individual cases to examine, in addition to their regular reviews, their requirements for properties in which the German side has a particular interest. This applies especially in the periods during which institutions are being dissolved.
- *8. The 1991 estimates already consulted bilaterally, adjusted as appropriate to take account of the termination of Quadripartite rights and responsibilities and of any reductions in force levels, shall be reviewed on a bilateral basis."

I have the honor to inform you that the Government of the United States of America agrees to the content of Your Excellency's Note. Accordingly, Your Excellency's Note, including its Annexes, this reply and the replies of the Ambassador of the French Republic and the Ambassador of the United Kingdom of Great Britain and Northern Ireland expressing their Governments' agreement shall constitute an Agreement between our four Governments, which shall enter into force, following completion of any necessary constitutional requirements, when Quadripartite rights and responsibilities cease to have effect.

Accept, Excellency, the renewed assurances of my highest consideration.

Kenneth D. Walters

EMBASSY OF THE
UNITED STATES OF AMERICA

September 28, 1990

Excellency,

I have the honor to acknowledge receipt of your Note of September 27, 1990 concerning the Relations Convention and the Settlement Convention, the English text of which reads as follows:

"I have the honour to refer to the discussions which have taken place between representatives of the Governments of the Federal Republic of Germany, the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America, and, on behalf of the Government of the Federal Republic of Germany to propose the following:

- "1. The Convention on Relations between the Three Powers and the Federal Republic of Germany of 26 May 1952 (as amended by Schedule I to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954) ("The Relations Convention") shall be suspended upon the suspension of the operation of quadripartite rights and responsibilities with respect to Berlin and to Germany as a whole, and shall terminate upon the entry into force of the Treaty on the Final Settlement with respect to Germany, signed at Moscow on 12 September 1990.

His Excellency

Dr. Hans Werner Lautenschlager,

State Secretary,

Ministry of Foreign Affairs,

Federal Republic of Germany.

"2. Subject to paragraph 3 below, the Convention on the Settlement of Matters Arising out of the War and the Occupation of 26 May 1952 (as amended by Schedule IV to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on 23 October 1954) ("the Settlement Convention") shall be suspended and shall terminate at the same time as the Relations Convention; this also applies to the letters and exchanges of letters relating to the Relations Convention and the Settlement Convention.

"3. The following provisions of the Settlement Convention shall, however, remain in force:

Chapter One:	Article 1, paragraph 1, first sentence up to and including "...legislation enacted by the Occupation Authorities", and paragraphs 3, 4 and 5
	Article 2, paragraph 1
	Article 3, paragraphs 2 and 3
	Article 5, paragraphs 1 and 3
	Article 7, paragraph 1
	Article 8
Chapter Three:	Article 3, paragraph 5 (a) of the Annex
	Article 6, paragraph 3 of the Annex
Chapter Six:	Article 3, paragraphs 1 and 3
Chapter Seven:	Article 1
	Article 2
Chapter Nine:	Article 1
Chapter Ten:	Article 4

- 3 -

In addition, paragraph 7 of the letters of 23 October 1954 from the Federal Chancellor to each of the three High Commissioners relating to facilities for Embassies and Consulates, as well as the letters of 23 October 1954 in confirmation from the High Commissioners, shall remain in force.

- *4.
- (a) The Government of the Federal Republic of Germany declares that it shall take all adequate measures to ensure that the provisions of the Settlement Convention which remain in force shall not be circumvented in the territory of the present German Democratic Republic and in Berlin.
 - (b) With regard to Article 11 of Chapter One of the Settlement Convention:

The Government of the Federal Republic of Germany is aware of the continued existence of I.G. Farbenindustrie A.G.i.L. under the original name and shall use its best endeavours to achieve a satisfactory solution consistent with the objectives which were expressed in Article 11 of Chapter One.
 - (c) With regard to Chapters Three, Four and Five of the Settlement Convention:

The Government of the Federal Republic of Germany confirms that the deletion of Chapters Three, Four and Five shall not affect the continued application of the principles set forth therein in respect of internal restitution, compensation for victims of Nazi persecution and external restitution, as well as the continued application of the corresponding provisions of the Federal Restitution Law and the Federal Compensation Law. The compensation pensions awarded to the victims of Nazi

persecution and to their descendants shall continue to be granted in accordance with the applicable provisions.

The Government of the Federal Republic of Germany shall ensure that upon suspension of the Settlement Convention the jurisdiction of the Supreme Restitution Court is transferred to German courts.

The Government of the Federal Republic of Germany states that the Federal Restitution Law and the Federal Compensation Law will be extended to the territory of the present German Democratic Republic.

In this respect further provisions that take account of the conditions prevailing there are required.

(d) With regard to Chapter Nine of the Settlement Convention:

Articles 2 and 3 of Chapter Nine have not been retained on the assumption that all questions dealt with therein have been settled as far as the Parties to the Settlement Convention are concerned.

The Government of the Federal Republic of Germany has assumed the responsibility for the determination and satisfaction of any claims by persons subject to its jurisdiction which are referred to in Article 3 and which may still be asserted under German law.

"If the Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America agree to the content of this Note, this Note and the Notes in reply thereto expressing your Governments' agreement, shall constitute an Agreement between our four Governments, which shall enter into force upon receipt of the last reply expressing agreement. The

-3-

Government of the Federal Republic of Germany shall inform the other Governments of the receipt of that last reply.

"The English and French texts of this Note are attached hereto, all three texts being equally authentic."

I have the honor to inform you that the Government of the United States of America agrees to the content of Your Excellency's Note. Accordingly, your Excellency's Note, this reply and the replies of the Ambassador of the French Republic and the Ambassador of the United Kingdom of Great Britain and Northern Ireland expressing their Governments' agreement shall constitute an Agreement between our Governments, which shall enter into force upon receipt of the last reply expressing agreement.

Accept, Excellency, the renewed assurances of my highest consideration.

(signed by Am S. Walters
9/28/90)